



4910-06-P

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Railroad Administration**

**[Docket Number FRA-2004-19950]**

### **Petition for Waiver of Compliance**

In accordance with part 211 of title 49 of the Code of Federal Regulations (CFR), this provides the public notice that by a document dated December 9, 2014, the New York & Lake Erie Railroad (NYLE) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR 223.11 Requirements for existing locomotives. FRA assigned the petition Docket Number FRA-2004-19950.

The New York & Lake Erie Railroad of Gowanda, New York, has petitioned for a permanent waiver of compliance for two locomotives, numbered NYLE 1013 and NYLE 308, from the requirements of the Railroad Safety Glazing Standards, title 49 CFR part 223, which requires certified glazing in all windows. The types of glazing currently used in the two locomotives are as follows: Locomotive NYLE 1013 - Laminated Safety Glass AS-1, DOT 14M-220-ASI-030, and locomotive NYLE 308 – Clear Laminated Safety Glass AS-2 101. The NYLE is a short line carrier that operates over 29.5 miles through rural countryside and small communities. They traverse two line segments which are connected and extend from Cattaraugus, NY, to Dayton, NY, (10.1 miles) and from Conewango Valley, NY, to Gowanda, NY, (19.4miles).

The original waiver, approved on June 18, 2010, granted relief to the NYLE for limited freight service over 29.5-mile-long line, consisting of Class 1 track, at speeds not to exceed 10 mph. However, the current petition, dated December 9, 2014, states that the NYLE has now improved the track to Class 2. In addition to the limited freight service, the NYLE now occasionally operates tourist passenger excursions. In the new petition, NYLE is asking to include in the waiver passenger excursions, and to increase the maximum operating speed to 25 mph, both for the freight service and the passenger excursions.

The NYLE states that there has been no problem with window breakage due to vandalism, and that they have not had to replace glass due to breakage from flying objects. Because of low risk of exposure to injury due to vandalism, prohibitive cost of the glazing material and decreased operating revenue due to declining freight shippers, the NYLE is requesting the waiver of this regulation for the two locomotives listed above.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at [www.regulations.gov](http://www.regulations.gov) and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Ave., S.E., W12-140, Washington, D.C. 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- Web site: <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Fax: 202-493-2251.
- Mail: Docket Operations Facility, U.S. DOT, 1200 New Jersey Avenue, S.E., W12-140, Washington, D.C. 20590.
- Hand Delivery: 1200 New Jersey Avenue, S.E., Room W12-140, Washington, D.C. 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by [INSERT DATE 45 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER] will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy). See also <http://www.regulations.gov/#!privacyNotice/> for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477).

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